

## **Wage and Hour Division, Labor**

## **§ 525.8**

personal housekeeping chores, such as maintaining his or her own quarters, or receives a token remuneration in connection with such services. It may also be possible for patients in family-like settings such as group homes to rotate or share household tasks or chores without becoming employees.

### **§ 525.5 Wage payments.**

(a) An individual whose earning or productive capacity is not impaired for the work being performed cannot be employed under a certificate issued pursuant to this part and must be paid at least the applicable minimum wage. An individual whose earning or productive capacity is impaired to the extent that the individual is unable to earn at least the applicable minimum wage may be paid a commensurate wage, but only after the employer has obtained a certificate authorizing payment of special minimum wages from the appropriate office of the Wage and Hour Division of the Department of Labor.

(b) With respect to patient workers employed in institutions, no deductions can be made from such individuals' commensurate wages to cover the cost of room, board, or other services provided by the facility. Such an individual must receive his or her wages free and clear, except for amounts deducted for taxes assessed against the employee and any voluntary wage assignments directed by the employee. (See part 531 of this title.) However, it is not the intention of these regulations to preclude the institution thereafter from assessing or collecting charges for room, board, and other services actually provided to an individual to the extent permitted by applicable Federal or State law and on the same basis as it assesses and collects from nonworking patients.

### **§ 525.6 Compensable time.**

Individuals employed subject to this part must be compensated for all hours worked. Compensable time includes not only those hours during which the individual is actually performing productive work but also includes those hours when no work is performed but the individual is required by the employer to remain available for the next assignment. However, where the indi-

vidual is completely relieved from duty and is not required to remain available for the next assignment, such time will not be considered compensable time. For example, an individual employed by a rehabilitation facility would not be engaged in a compensable activity where such individual is completely relieved from duty but is provided therapy or the opportunity to participate in an alternative program or activity in the facility not involving work and not directly related to the worker's job (*e.g.*, self-help skills training, recreation, job seeking skills training, independent living skills, or adult basic education). The burden of establishing that such hours are not compensable rests with the facility and such hours must be clearly distinguishable from compensable hours. (For further information on compensable time in general under FLSA, see part 785 of this title.)

### **§ 525.7 Application for certificates.**

(a) Application for a certificate may be filed by any employer with the Regional Office of the Wage and Hour Division having administrative jurisdiction over the geographic area in which the employment is to take place.

(b) The employer shall provide answers to all of the applicable questions contained on the application form provided by the Regional Office.

(c) The application shall be signed by the employer or the employer's authorized representative.

### **§ 525.8 Special provisions for temporary authority.**

(a) Temporary authority may be granted to an employer permitting the employment of workers with disabilities pursuant to a vocational rehabilitation program of the Veterans Administration for veterans with a service-incurred disability or a vocational rehabilitation program administered by a State agency.

(b) Temporary authority is effective for 90 days from the date the appropriate section of the application form is signed and completed by the duly designated representative of the State agency or the Veterans Administration. Such authority may not be renewed or extended by the issuing agency.